

REMARKS

The Office Action mailed on November 24, 2009 has been carefully considered. Accordingly, the changes presented herewith, taken with the following remarks, are believed sufficient to place the present application in condition for allowance. Reconsideration is respectfully requested.

Claims 32-33 and 35-72 are pending in the current case. Claims 37 and 55 are cancelled without prejudice, Applicants reserving the right to pursue these claims at a later time.

Claims 37, 38, 44, and 55 have been objected to. In response, claims 37 and 55 have been cancelled and claims 38 and 44 have been amended to obviate the objections.

Claims 53-55, 58-59, 66-68 stand rejected under 35 U.S.C. 102(b) as being anticipated by USPN 4,888,012 ("Horn"). Claims 32-33, 35-52, 56-57, 60-65, and 69-72 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Horn in view of USPN 6,749,634 ("Hanna"). Such rejections are traversed in part and overcome in part as follows.

Claims 53-54, 58-59, 66-68 Are Not Anticipated by Horn.

Claim 53 is directed to an implantable intraocular lens comprising, in pertinent part, a positioning member operably coupled with an optic and responsive to relaxation of zonules within an eye, wherein accommodation in response to a relaxation of the zonules is achieved when movement of the arms towards the optic causes the optic to change from the first shape to the second shape so as to change diopter power value of the optic. Horn does not disclose all the limitations of claim 53.

For example, Horn discloses an intraocular lens in which ciliary muscle pressure is directly applied to a ring structure 44 in operative engagement with the ciliary muscle 68. Horn, column 6, lines 36-38. By contrast, claim 53 require a positioning member responsive to relaxation of zonules within an eye. This difference may be illustrated by a comparison between FIG. 4 from Horn and FIG. 23 of the currently pending Application, both of which are reproduced below for convenience. As illustrated in FIG. 4 of Horn, the intraocular lens 10 of Horn is configured for an eye in which the zonules have been removed. By contrast, intraocular lens 146 shown in Applicants' FIG. 23 is responsive to zonules 28, which relax in response to contraction of ciliary muscle 26.

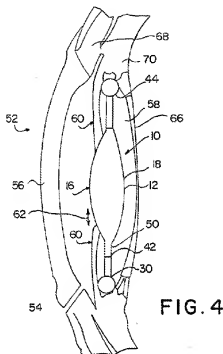


FIG. 4

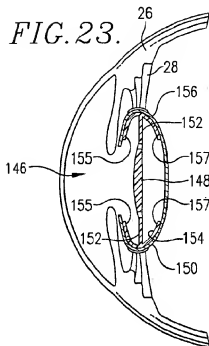


FIG. 23.

Furthermore, Horn discloses an intraocular lens that, in effect, is configured to replace the zonules of an eye, rather than be responsive to the zonules of an eye. For example, Horn discloses that intraocular lens 10 “functions to provide accommodation by utilizing the contractions of the ciliary muscle 68 in much the same manner as the human eye employs these muscle actions on the natural lens.” Horn, column 6, lines 32-35. Horn goes on to disclose that “the muscle 68 compresses the outer ring structure 44 which then allows the stretching tension transmitted from the outer ring 44 to the lens 12 via the web 50 to relax.” Horn, column 6, lines 41-46. Thus, the web 50 of Horn effectively replaces, and provides the function of, the zonules of the eye by stretching and relaxing in response to the ciliary muscle 68 and outer ring 44. By contrast, claim 53 require a positioning member that is responsive to relaxation of zonules within an eye.

In addition, Horn does not disclose accommodation in response to a relaxation of the zonules, since Horn instead discloses an eye in which the zonules are not even present.

Nor does Horn disclose accommodation being achieved when *movement of arms towards the optic causes* an optic to change from a first shape to a second shape. To the contrary, Horn discloses a web 50 that relaxes, wherein this “relaxation of the tension thereon enables the lens 12 to deform...whereby accommodation is achieved.” Horn, column 6, lines 44-48. Thus, rather shape change and accommodation caused by the movement of arms, as

required by claim 53, Horn discloses optic deformation and accommodation caused by the relaxation of the tension on a web 50.

At least because Horn does not disclose all of the limitations of claim 53, Applicants request the Examiner allow claim 53. Claims 54, 58-59, 66-68 depend from claim 53 and further define the invention of claim 53. Thus, claims 54, 58-59, 66-68 are patentable over Horn at least for the same reasons that claim 53 is patentable thereover, and are patentable in their own right as well.

Claims 32-33, 35-36, 38-52, 56-57, 60-65, and 69-72 Are Patentable Over Horn and Hanna.

Claim 32 includes limitations similar to those discussed above in relation to claim 53. Thus, claim 32 is patentable over Horn for at least some of the same reasons claim 53 is patentable thereover, and is patentable in its own right as well.

Hanna does nothing to cure the defects of Horn with regard to disclosing the limitations of claim 52 discussed above in relation to claim 53. For example, Horn does not disclose accommodation when movement of the arms towards the optic causes the optic to change from the first shape to the second shape, as required by claim 32. To the contrary, Horn discloses an intraocular implant in which contraction of the ciliary causes a lens to move forwards, which corresponds to contraction of the ciliary muscle for near vision. Horn, column 3, lines 36-39.

Claim 48 is directed to an intraocular lens comprising, in pertinent part, a positioning member operably coupled with an optic, the positioning member including anterior and posterior segments, the anterior segments being circumferentially disposed about the central polar axis so as to define a central opening, wherein an entirety of the optic is disposed between first and second planes perpendicular to the central polar axis, the first plane including the central opening and the second plane including the posterior segments. Referring to FIG. 4 of Horn and to FIG. 20 of Hanna, neither of these references disclose this limitation of claim 48.

The current Office Action asserts that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the positioning member of Horn to include anterior and posterior segments located anteriorly and posteriorly of the optic as taught in Hanna in order to provide the lens system with a configuration for placement in the capsular bag. Applicants respectfully disagree.

First, one of skill in the art would not combine Horn with Hanna, since Horn teaches away from the use of zonules to provide accommodation and teaches away from *movement of*

arms towards an optic to cause the optic to change from a first shape to a second shape. For example, in contrast to disclosing movement of arms towards an optic causing accommodation, Horn discloses relaxation of the tension on a web being used to achieve accommodation. Horn, column 6, lines 44-48. It is improper to combine references where the references teach away from their combination. In re Grasselli, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983) (The claimed catalyst which contained both iron and an alkali metal was not suggested by the combination of a reference which taught the interchangeability of antimony and alkali metal with the same beneficial result, combined with a reference expressly excluding antimony from, and adding iron to, a catalyst.).

In addition, Horn also teaches away from an intraocular lens with a configuration for placement in the capsular bag, as asserted at the bottom of page 4 and the top of page 5 in the current Office Action. Instead, Horn discloses an intraocular lens 10 that “functions to provide accommodation by utilizing the contractions of the ciliary muscle 68 in much the same manner as the human eye employs these muscle actions on the natural lens.” Horn, column 6, lines 32-35. Horn goes on to disclose that “the muscle 68 compresses the outer ring structure 44 which then allows the stretching tension transmitted from the outer ring 44 to the lens 12 via the web 50 to relax.” Horn, column 6, lines 41-46. Thus, Horn effectively teaches away from an intraocular lens with a configuration for placement in the capsular bag.

Claim 72 includes limitations similar to those discussed above in relation to claim 48. Thus, claim 72 is patentable over Horn and Hanna for at least some of the same reasons claim 48 is patentable thereover, and is patentable in its own right as well.

At least because Horn and Hanna do not disclose all of the limitations of claims 32, 48, and 72, and because one of skill in the art would not combine Hanna with Horn in the manner suggested by the current Office Action, Applicants request the Examiner allow claims 32, 48, and 72. Claims 33, 35-47, 49-52, 56-57, 60-65, and 69-71 depend from claim 32, 48, or 72 and further define the inventions of claims 32, 48, and 72. Thus, claims 33, 35-36, 38-47, 49-52, 56-57, 60-65, and 69-71 are patentable over Horn and Hanna at least for the same reasons that claims 32, 48, and 72 are patentable thereover, and are patentable in their own right as well.

CONCLUSION

For the foregoing reasons, Applicant respectfully asserts that the claims now pending are allowable over the prior art of record. Therefore, Applicant earnestly seeks a notice of allowance and prompt issuance of this application.

The Commissioner is hereby authorized to charge payment of any fees associated with this communication to Deposit Account No. 502317.

Respectfully submitted,
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Dated: February 19, 2009

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